

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON D.C. 20554

In the matter of:

Numbering Resource Optimization

CC Docket No. 99-200

**COMMENTS OF THE CALIFORNIA PUBLIC UTILITIES COMMISSION
AND OF THE PEOPLE OF THE STATE OF CALIFORNIA ON FOURTH
FURTHER NOTICE OF PROPOSED RULEMAKING**

The California Public Utilities Commission and the People of the State of California (CPUC or California) submit these Comments in response to the *Fourth Further Notice of Proposed Rulemaking (FNPRM)* issued by the Federal Communications Commission (FCC or Commission) in this docket on June 18, 2003.¹ In the *Fourth Report & Order*, the FCC exempted from the national number pooling requirement "carriers operating in rate centers within the largest 100 MSAs, where they are the only service provider receiving numbering resources". In the *FNPRM*, the FCC seeks comment on one narrow issue, "whether to extend the exemption established [in the *Fourth Report and Order*] to carriers operating in rate centers with two service

¹ *Fourth Report and Order* in CC Docket No. 99-200 and CC Docket No. 95-116, and *Fourth Further Notice of Proposed Rulemaking* in CC Docket No. No. 99-200.

providers".² California believes the answer to that inquiry should be "no", for reasons set forth below.

I. THE CPUC HAS ADVOCATED THAT THE STANDARD FOR DEPLOYMENT OF LNP AND POOLING SHOULD BE WHETHER TWO OR MORE CARRIERS ARE PROVIDING SERVICE IN A RATE CENTER

In two prior pleadings, the CPUC has recommended that the FCC adopt exactly the opposite standard of what is proposed in the *FNPRM*. Specifically, in comments on the *Third Order on Reconsideration*, the CPUC argued that the FCC should not exempt small carriers from the LNP mandate, and urged the Commission to allow states to make individual determinations of exemption on a case-by-case basis.³

Whether or not a particular carrier would qualify for an exemption is a fact specific question with numerous factors to be addressed, such as whether competition is authorized in the area of the carrier requesting the exemption, feasibility of upgrading the system network, the number of carriers operating within a local rate area, and whether the carrier's exchange is located within a local rate area shared with any other carrier with which numbers could be pooled. *This decision should not hinge on the likelihood that a carrier might receive a request to port a number to another carrier, but rather, on the existence of any other carriers operating in the rate center, which could share numbers from one or more NXXs.*⁴

² Id. ¶ 19.

³ Comments of the California Public Utilities Commission and of the People of the State of California on the Third Order on Reconsideration in CC Docket No. 99-200, Third Further Notice of Proposed Rulemaking in CC Docket No. 99-200, and second Further Notice of Proposed Rulemaking in CC Docket No. 95-116, filed May 9, 2002, p. 9.

⁴ Id.; emphasis added.

In California's Reply Comments in the same docket, the CPUC made the same argument in response to comments of the Rural Cellular Association and the U. S. Telecom Association.

California asserts that a carrier should not be categorically exempted from the LNP requirement based on the fact that it is small, or because it qualifies as a rural carrier. Instead, the FCC should delegate to the states the authority to grant carrier exemptions on a case-by-case, fact-specific basis. The appropriate situation justifying a state grant of an exemption would be where the facts show that there is not now, and will not be in the foreseeable future, another carrier operating in the rate center in question. With no other carrier also operating in the same rate center, the incumbent could not share, or pool, an NXX with that other carrier also operating in the rate center. *The trigger for whether or not a carrier should be LNP capable should not be whether competition between carriers exists within the rate center. Rather, it should be based on whether or not other carriers have taken one or more NXX codes in the rate center with which the incumbent can pool and share numbers.*⁵

The point of the CPUC's comments on the question of whether rural carriers should be exempt from the LNP requirement was that LNP generally is considered a precursor to pooling.⁶ Consequently, if all carriers were required to deploy LNP unless a carrier obtained an exemption from a state, the carriers would also be able to pool. The purpose of the LNP requirement, as articulated in the CPUC's comments, was that when two or more carriers are providing service in a particular rate center, the two carriers can

⁵ Reply Comments of the California Public Utilities Commission and of the People of the State of California on the *Third Order on Reconsideration* in CC Docket No. 99-200, *Third Further Notice of Proposed Rulemaking* in CC Docket No. 99-200, and *Second Further Notice of Proposed Rulemaking* in CC Docket No. 95-116, filed June 5, 2002, p. 9, emphasis added.

⁶ The CPUC is mindful that wireless carriers are now pooling but have yet to implement full LNP.

share NXX codes, that is, they can pool numbers. Thus, the CPUC is on record as having advocated the very opposite of what the FCC is proposing here.

II. THE FCC HAS NOT ARTICULATED A CLEAR RATIONALE FOR EXEMPTING FROM THE POOLING REQUIREMENT RATE CENTERS WITH ONLY TWO CARRIERS PROVIDING SERVICE

In the *FNPRM*, the FCC simply notes that "AT&T Wireless proposes that carrier, regardless of their size, operating in rate centers with fewer than three service providers, be exempt from the pooling requirement".⁷ The basis for the AT&T Wireless proposal is lacking. Consequently, the CPUC cannot guess what rationale would support exempting two carriers in a rate center from being required to pool numbers. The positive effects of pooling are unambiguous, as has been demonstrated all across the country commensurate with the national pooling rollout. More specifically, the CPUC has achieved tremendous results from implementing pooling in at least portions of each of the 25 NPAs in California. We have reported our results periodically to the North American Numbering Council.

The benefits of pooling when only two carriers are providing service in the same rate center are obvious, since each of the two carriers would draw numbers at a slower rate and would be required to use 75% of the numbers in each 1,000-block before requesting another block. In contrast, allowing those two carriers to draw an entire NXX code would result in more unused numbers being retained in each carrier's inventory.

⁷ *Fourth Report & Order*, ¶ 30.

Ultimately, not requiring two carriers sharing a rate center to also share NXX codes would strand far more numbers.

The CPUC has prepared a chart showing how many rate centers would be affected in California by the AT&T proposal.⁸ The chart shows that 22 rate centers in 7 area codes, including at least 3 area codes with high demand, have only two carriers providing service.⁹ The CPUC sees no value to exempting these rate centers from the requirement to pool, and indeed, envisions that exempting these rate centers from pooling would only increase pressure on numbering resources in area codes with high demand.

Consequently, we urge the FCC *not* to extend the exemption established in the *Fourth Report & Order*.

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⁸ The chart is attached to these comments.

⁹ The three high-demand NPAs are the 707, 805, and 909.

III. CONCLUSION

For the reasons stated, the CPUC recommends strongly that the FCC not extend the pooling exemption established in the *Fourth Report & Order* to two carriers providing service in a rate center.

Respectfully submitted,

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ATTACHMENT 1

CALIFORNIA PUBLIC UTILITIES COMMISSION'S ANALYSIS ON DETERMINING EXTENT OF EXEMPTING FROM POOLING RATE CENTERS WITH ONLY TWO CARRIERS

NPA	Number of Rate Centers With 1 Carrier	Number of Rate Centers With 2 Carriers	Number of Rate Centers With 3 Carriers
209	11	2	0
213	0	0	0
310	0	0	1
323	0	0	0
408	1	0	0
415	0	0	0
510	0	0	0
530	45	5	11
559	8	2	0
562	0	0	0
619	0	0	0
626	0	0	0
650	0	0	0
661	0	0	0
707	10	4	4
714	0	0	0
760	18	3	17
805	3	3	2
818	0	0	0
831	2	0	0
858	0	0	0
909	1	3	2
916	0	0	1
925	0	0	0
949	0	0	0
	99	22	38